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Supreme Court, U.S.
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MAY 29 1980
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IN THE

SUPREME COURT OF THE UNITED STATES

_____TERM, 1980

NO. _____

ETIENNE J. CAIRE, II
Petitioner

VERSUS

JOHN A. STASSI d/b/a
JOHN A. STASSI REAL ESTATE
Respondent

PETITION FOR A WRIT OF CERTIORARI

TO THE SUPREME COURT OF LOUISIANA

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CITATIONS TO LAWS INVOLVED

LSA - C.C.P. art 4833 (B)*

LSA - C.C.P. art 4899*

LSA - C.C.P. art 4921*

LSA - Const. Art. 5 sec. 8

U.S.C.A. Const. Amend 14

TABLE OF AUTHORITIES

Chaisson et al v. Southcoast Corporation, et al 350 U.S. 899; 76 S. Ct. 184

Godchaux Sugars v. Chaisson 227 La. 146; 78 So. 2d 673

Lindsey v. Normet 92 S. Ct. 863; 405 U.S. 56; 31 L. Ed 2d 36

Scott v. Moore 39 So. 2d 741

Town of Rayville v. Mann 136 La. 237; 66 So. 957

*Prior to amendment by Act 46 of 1979

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PETITION FOR A WRIT OF CERTIORARI

TO THE SUPREME COURT OF LOUISIANA

Petitioner, Etienne J. Caire II, respectfully prays that a writ of certiorari issue to review the judgement of the Supreme Court of Louisiana rendered on January 28, 1980 and which judgement became final on March 3, 1980, the date on which the application for rehearing was denied.

REFERENCE TO OFFICIAL REPORTS

The opinion of the Court of Appeal, Fourth Circuit, State of Louisiana is reported at 371 So. 2d 1302. The opinion of the Supreme Court of Louisiana is

reported at 379 So. 2d 1056.

JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. Section 1257 (3).

QUESTION PRESENTED

Whether the majority decision reached by the Supreme Court of Louisiana operates to deny to petitioner the equal protection of the laws of the State of Louisiana and thus violates the Fourteenth Amendment of the Constitution of the United States by contravening the Equal Protection Clause of that amendment in that it capriciously denies to petitioner the appellate process which is afforded to other litigants who enter the city court system of justice, particularly those in the Parish of Orleans, to wit:

a) Litigants with a claim of $300 or less will be granted a trial de novo in the district court (Articles 4899 and

4921 of the Louisiana Code of Civil Procedure) resulting in a right of appeal to a three judge panel in a court of appeal.

b) Litigants with a claim of $300 to $1,000 are granted only an appeal to a single judge of a district court where the decision becomes final.

c) Litigants with a claim of more than $1,000 are granted a direct appeal to a three judge panel in a court of appeal.

STATEMENT OF THE CASE

1. Petitioner filed suit in the First City Court for the Parish of Orleans, a trial court of limited jurisdiction, presenting a claim for $600. After a trial on the merits, petitioner's suit was dismissed.

2. Petitioner appealed to the Civil District Court for the Parish of Orleans, a trial court vested by statute with jurisdiction to hear this appeal. This

district court affirmed the lower court's judgment and added an award of $500 as an attorney's fee to the prevailing party.

3. Petitioner then appealed to the Court of Appeal, Fourth Circuit, State of Louisiana, asserting his belief that such an appeal was a matter of right under state law. This court of appeal ordered and received briefs solely on the issue of jurisdiction in connection with the rule to show cause why the appeal should not be dismissed issued on its own motion. This court of appeal dismissed the appeal holding that it did not have jurisdiction to hear an appeal from the City Court of New Orleans where the amount in controversy was between $300 and $1,000.

4. Petitioner applied to the Supreme Court of Louisiana for writs of certiorari and review to the Court of

Appeal, Fourth Circuit. The writ was granted and in the ordinary course of events argued before the Supreme Court of Louisiana.

5. The Supreme Court of Louisiana affirmed the decision of the Court of Appeal, Fourth Circuit, State of Louisiana.

6. Both the decision of the Court of Appeals and the Supreme Court of Louisiana frankly admit of the difference in treatment in the appellate process which is afforded litigants in the three classes: (a) a claim of $300 or less; (b) a claim of $300 to $1,000; and (c) a claim of more than $1,000.

7. The statutes which govern petitioner's appeal did not prohibit an appeal to the Court of Appeal by a litigant with a claim between $300 and $1,000. It is the interpretation, and consequently the application, of the

statute by the Court of Appeal and the Supreme Court which operate to deny petitioner access to the Court of Appeal.

8. The stage in these proceedings in which the federal question sought to be reviewed was raised was in petitioner's application for rehearing made to the Supreme Court of Louisiana, i.e. a denial of the equal protection of the laws of the State of Louisiana; however, in petitioner's briefs to the Court of Appeal and the Supreme Court of Louisiana, petitioner consistently argued, inter alia, that Louisiana law provided him with a right of appeal to a circuit court of appeal.

ARGUMENT AMPLIFYING
REASONS FOR ALLOWANCE OF THE WRIT

The Supreme Court of the United States has granted the petition for writ of certiorari to the Supreme Court of Louisiana where Federal

constitutional issues were not raised or passed on when the case was originally before the Supreme Court of Louisiana, but were raised for the first time in application for rehearing and the application for rehearing denied. Godchaux Sugars v. Chaisson, 227 La. 146, 78 So. 2d 673; Chaisson et al v. Southcoast Corporation, et al, 350 U.S. 899, 76 S. Ct. 184.

CONTENTIONS IN SUPPORT OF PETITION

I.

Different Treatment in the Appellate Process

(a)

Trial de novo for Claims Under $300.

Both the Court of Appeals, Fourth Circuit and the Supreme Court of Louisiana make a finding of fact that in cases involving $300 or less, the appeal from the City Court of New Orleans is to the Civil District Court where the case is tried de novo.

371 So. 2d @ 1303, appendix hereto p. (X)

379 So. 2d @ 1058, appendix hereto p. (Y)

The significance of the phrase de novo has been decided and has been well established in our jurisprudence by the Supreme Court of Louisiana. In Scott v. Moore, 39 So. 2d 741, that court said: A trial de novo means a trial anew, from the beginning; the whole case is open for decision. Town of Rayville v. Mann, 136 La. 237, 66 So. 957. At such a trial the appellate court may pass upon all questions in the case, including those pertaining to the merits, even though the decision of the court of original jurisdiction was predicated only on an exception ..."

The Supreme Court of Louisiana gave a much more specific definition in the case of Town of Rayville v. Mann, supra,

In that case the court said:

"...A 'trial de novo' means a trial anew, from the beginning, in the appellate tribunal, according to the usual or prescribed mode of procedure in other cases, involving similar questions, whether of law or fact... On a new trial in the appellate court the whole case is open for decision. All questions may be presented which legitimately arise on the record, whether urged or relied on in the lower court or not ...

Defendant may have lost a right of appeal to the Supreme Court by failing to contest the legality of the ordinance in the Mayor's court; but he did not forfeit his right of appeal to the District Court, in his right to have the case tried de novo there as it might have been tried originally in the Mayor's Court ..."

The above quoted language of the Supreme Court of Louisiana clearly indicates that rights are gained and not forfeited by a trial de novo. Certainly, if a trial de novo preserves the right of the appellant to raise new issues of law and fact during the trial de novo, it is axiomatic that such a procedure must also preserve his right to appeal those new issues, as well as all other issues.

(b)

Same District Court Is Final Step for Claims $300 - $1,000.

There is no gainsaying that petitioner, with his claim for $600 was handed different treatment in the appellate process than a litigant with a claim of $300 or less would have been as set forth in (a) above. Caire v. Stassi, 371 So. 2d 1302; 379 So. 2d 1056; furthermore, the same is true as compared to claims of $1,000 or more, as hereafter set forth in (c) below.

(c)

Court of Appeal for Claims over $1,000.

There is no dispute that the appeal is to the Court of Appeal where the amount exceeds $1,000. c.c.p. article 4833 (B). Caire v. Stassi, supra. An appeal to a single district court judge is distinctly different from that of a Court of Appeal. The 1974 Louisiana Constitution, Article V. Section 8 regulates the procedure and litigant's rights in a Court of Appeal. (See appendix for text)

On the contrary, there is no procedure, no regulation and, in fact, nothing whatsoever to which a single district court judge must adhere in his disposition of petitioner's case on appeal. Such is the result of the decisions reached by the courts below.

II.

Denial of Equal Protection

The decision reached below by the Supreme Court of Louisiana is not in accord with the applicable decisions of this Honorable Court. The Court below sanctioned a departure from the firmly established line of jurisprudence of this Honorable Court concerning a litigant's right of appeal under the Equal Protection Clause. In Lindsey v. Normet, 92 S. Ct. 862 (1972) at page 876, this Honorable Court emphasized the principle: "This Court has recognized that if a full and fair trial on the merits is provided, the Due Process Clause of the Fourteenth Amendment does not require a State to provide appellate review, Griffin v. Illinois, 351, U.S. 12, 18, 76, S. Ct. 585, 590, 100 L.Ed. 891 (1956); District of Columbia v. Clawans, 300 U.S. 617, 627, 57 S. Ct. 660, 663, 81 L. Ed. 843 (1937); Ohio ex rel.

Bryant v. Akron Metropolitan Park District, 281 U.S. 74, 80, 50 S.Ct. 228, 230 74 L.Ed 710 (1930); Reetz v.Michigan, 188 U.S. 505, 508, 23 S.Ct. 390, 392, 47 L.Ed. 563 (1903); McKane v. Durston, 153 U.S. 684, 687-688, 14 S.Ct. 913, 914-915, 38 L.Ed. 867 (1894), and the continuing validity of these cases is not at issue here. When an appeal is afforded, however, it cannot be granted to some litigants and capriciously or arbitrarily denied to others without violating the Equal Protection Clause. Griffin v. Illinois, supra; Smith v. Bennett, 365 U.S. 708, 81 S.Ct. 895, 6 L.Ed. 2d 39 (1961); Lane v. Brown, 372 U.S. 477, 83 S.Ct. 788, 9 L.Ed. 2d 892 (1963); Long v. District Court of Iowa, 385 U.S. 192, 87 S.Ct. 362, 17 L.Ed.2d 290 (1966); Gardner v. California, 393 U.S. 367, 89 S.Ct. 580, 21 L.Ed.2d 601 (1969). Cf. Coppedge v.

United States, 369 U.S. 438, 82 S.Ct. 917, 8 L.Ed. 2d 21 (1962); Ellis v. United States, 356 U.S. 674, 78 S. Ct. 974, 2 L.Ed. 2d 1060 (1958)."

The equal protection claim thus depends on whether the Court of Appeal and Supreme Court of Louisiana may validly single out claims between $300 and $1,000 and deny them access to the appellate process afforded to other claims. There is no valid reason for such different treatment; nevertheless, both lower courts stated what they thought to be a valid reason. The following section will address that issue.

III.

JUDICIAL ECONOMY vs. EQUAL PROTECTION

The Equal Protection Clause will be offended "only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective." McGowan v. Maryland, 366 U.S. 420, 425;

81 S.Ct. 1101, 1105; 6 L.Ed.2d 393 (1961), or if the objective itself is beyond the State's power to achieve, Gomillion v. Lightfoot, 364 U.S. 339; 81 S.Ct. 125; 5L.Ed.2d 110(1960); N.A.A.C.P. v. Alabama ex rel. Flowers, 377 U.S. 288; 84 S.Ct. 130 12 L.Ed. 2d 325 (1964); Douglas v. California 372 U.S. 353; 83 S.Ct. 814; 9L.Ed.2d 811 (1963) Lindsey, supra @ p. 872.

It is readily apparent from a reading of the majority opinion of the Supreme Court of Louisiana that the end sought by denying petitioner access to the court of appeal is judicial economy. The validity of that end is in and of itself suspect. That decision states that the classes upon which that end operates are two in number; however, the closing paragraph of the majority opinion does not evade and frankly admits of the third class from New Orleans city

courts ... i.e. when the amount in contest is $300. or less.

It is one thing to have legislation which has as its ideal "...promotion of judicial economy by reducing intermediate appellate caseload and providing a speedy, inexpensive remedy, for small claims at the local level." Caire v. Stassi, supra, It is quite another thing to impose that ideal under the guise of a valid State objective in those instances when the ideal is not realized. When this imposition is applied to only one of three classes of litigants, it does indeed offend the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Certainly the Supreme Court of Louisiana is aware of the Equal Protection Clause. Yet, that Court has singled out petitioner to send Its

message to the Louisiana Legislature. That message is simply this: This Court will uphold any statute you enact for the promotion of judicial economy ... equal protection notwithstanding. And this Court did in the face of new legislation to the contrary. (See footnote No. 1 of the majority opinion, Caire v. Stassi, supra)

CONCLUSION

A litigant's claim which is between $300 and $1,000 is no less in dignity than one which is less than $300 or more than $1,000 ... when each one of them has been presented for litigation in the same forum; however, the majority decision preserves the right of appeal only for those claims less than $300 or more than $1,000. The litigant with a claim between $300 and $1,000 receives finality of judgement in a district court. No other appellant is subject to such a

swift sword with no forewarning whatsoever that the amount of his claim is the death of his right to access to the court of appeal.

Accordingly, the majority decision of the Supreme Court of Louisiana interprets the Louisiana Code of Civil Procedure, Articles 4833 (B) and 4921, in a manner which capriciously operates to deny petitioner the equal protection of the laws of the State of Louisiana. Petitioner's rights under the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States have been violated. That decision cannot stand in this our land ... the United States of America.

Petitioner respectfully urges this Honorable Court to grant the writ sought by this petition.

Respectfully submitted

Stephen Joseph Caire

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70002

CERTIFICATE OF SERVICE

I, Stephen Joseph Caire, Attorney for Petitioner Etienne J. Caire, II, and duly admitted to practice before the Bar of the Supreme Court of the United States, hereby certify that I personally served three copies of the foregoing petition on Robert G. Stassi, Esq. at the law offices of Brian, Simon, Peragine, Smith & Redfearn, Forty-third floor, One Shell Square, New Orleans, Louisiana 70139 by delivery to counsel or a clerk therein on the 28th day of MAY, 1980.

Stephen Joseph Caire

STEPHEN JOSEPH CAIRE

A P P E N D I X

Etienne J. Caire, II

v.

John A. STASSI d/b/a John A. Stassi Real Estate.

No. 64949

Supreme Court of Louisiana

Jan. 28, 1980

Rehearing Denied March 3, 1980

DENNIS, Justice

This case presents the question of whether Article 5, § 10 of the Louisiana Constitution of 1974 affords a civil litigant an appeal to the court of appeal, regardless of a statute vesting appellate jurisdiction of his case in the district court.

Plaintiff, Etienne Caire, II, sued defendant, John A. Stassi, d/b/a John A. Stassi Real Estate, in the First City Court of New Orleans for the return of his $600 deposit after Caire failed to perform an agreement to purchase a hardware store. When the city court rejected his demand, Caire appealed unsuccessfully to the district court and then to the court of appeal, which dismissed his appeal for lack of jurisdiction. Caire v. Stassi, 371 So. 2d 1302 (La.App. 4th Cir. 1979). At the time of Caire's appeal former Article 4833(B) of the Code of Civil Procedure provided that an appeal from a city court when the amount in contest is $1,000 or less shall be to the district court.[1] We granted certiorari to determine whether appellate jurisdiction of this case remains in the court of appeal by constitutional mandate despite the existence of a statute vesting appellate jurisdiction in the district court.

The judgment of the court of appeal is affirmed. Article 5, § 16 of the 1974 Louisiana Constitution, which authorizes the legislature to vest appellate jurisdiction in the district courts, also authorizes the lawmakers to divest the courts of appeal of any civil appellate jurisdiction that is vested in the district courts. Since former Article 4833(B) of the Code of Civil Procedure, which was in effect at the time of the present case, provided for a single appeal to the district court

in city court contests involving $1,000 or less, the court of appeal correctly dismissed Caire's attempt to prosecute a second appeal in the intermediate court.

The Louisiana Constitution of 1974 does not give the courts of appeal appellate jurisdiction in all civil matters for Section 10 of the Judiciary Article states that a court of appeal has jurisdiction in all civil matters decided within its circuit "(e)xcept in cases appealable to the supreme court and except as otherwise provided by this constitution." Art 5, § 10, La. Const. 1974. Section 16 of the Judiciary Article authorizes the legislature to invest the district courts with appellate jurisdiction: "A district court shall have appellate jurisdiction as provided by law." Art 5, § 16(B), La. Const. 1974. The instant case raises the question of whether the legislature, in vesting appellate jurisdiction in the district court, may thereby divest the court of appeal of such jurisdiction.

An analysis of the constitutional interplay between Sections 10 and 16 of the Judiciary Article reveals that when the legislature empowers the district courts to hear civil appeals, it may at the same time remove appellate jurisdiction of these cases from the courts of appeal. Had it been intended that the legislature could place preliminary, but not final, appellate jurisdiction in the district courts, there would have been no necessity to qualify Section 10's basic grant of civil appellate jurisdiction to the courts of appeal by adding "except as otherwise provided by this constitution." Section 16's grant

of legislative authority to vest appellate jurisdiction in the district courts is the primary provision in the constitution to which the exception clause of Section 10 applies.[2] As Professor Hargrave, coordinator of legal research for the Constitutional Convention of 1973, observes:

". . . Since it is clear that district courts can be granted some appellate jurisdiction by law, and since it would have been unnecessary to include the exception clause in Section 10 if that appellate jurisdiction were to be concurrent, it would appear implicit that the legislature can divest the courts of appeal of the appellate jurisdiction that it vests in district courts. This would promote efficiency, and would be consistent with the background upon which these sections were drafted. . . ." (footnote omitted) Hargrave, The Judiciary Article of the Louisiana Constitution of 1974, 37 La.L. Rev. 765, 805 (1977). Accord: Crain v. Dearmond's, 369 So. 2d 1171 (La.App. 1st Cir. 1979), Hibernia Bank In New Orleans v. DeGraauw, 351, So.2d 1223 (La.App. 4th Cir. 1977) (Comments as to appellate jurisdiction only): Cox v. Kiefer, 311 So.2d 596 (La.App. 1st Cir. 1975).

The legislature divested the court of appeal of appellate jurisdiction of the present case and vested it in the district court. Former Article 4833(B) divided appeals from the city court judgments into two classes: Those in which the contested amount was $1,000 or less; and those in which the amount disputed exceeded $1,000. The smaller appeals were sent to the district court and the larger to the court of appeal. The article expressed the dichotomy as follows:

". . .

"B. The appeal from a city court when the amount in contest is one thousand dollars or less exclusive of interest, shall be returnable to the district court of the district in which the city is located.

"The appeal from a city court when the amount in contest exceeds one thousand dollars, exclusive of interest, shall be returnable to the court of appeal of the circuit in which the city is located. "..." La. C.C.P. art. 4833(B).

The legislature clearly intended to reduce the court of appeal's appellate caseload by providing a single appeal of right in the district court from the smaller city court contests. Relator suggests that Article 4833(B) may be construed nevertheless to allow a second appeal from the district court in suits involving $1,000 or less. His strained interpretation reads into the statute words neither stated nor intended, however, and would thwart the constitutional purpose authorizing the legislature to vest appellate jurisdiction in the district courts, i.e., promotion of judicial efficiency by reducing intermediate appellate caseload and providing a speedy, inexpensive remedy, for small claims at the local level.

The relator argues that the effect of the court of appeal decision, and ours in affirming the court of appeal, is to destroy a litigant's right to a trial de novo in the district court as provided by Article 4921 of the Code of Civil Procedure. By its own terms, however, Article 4921 applies only to appeals from New Orleans city courts when the principal

"(B) Appellate Jurisdiction. A district court shall have appellate jurisdiction as provided by law."

Thus, Art. 5, § 16 simply empowers the legislature to vest appellate jurisdiction in the district court. Nowhere does the provision empower the legislature to divest the courts of appeal of their appellate jurisdiction by simply passing a statute. Article 5, § 10 establishes the appellate jurisdiction of the courts of appeal as follows:

"Section 10. (A) Jurisdiction. Except in cases appealable to the supreme court and except as otherwise provided by this constitution, a court of appeal has appellate jurisdiction of all (1) civil matters decided within its circuit and (2) matters appealed from family and juvenile courts, except criminal prosecutions of persons other than juveniles."

In this writer's opinion, Art. 5, § 16 does not otherwise provide for appellate jurisdiction in the district courts rather than in the court of appeal. It only permits the legislature to authorize the district courts to exercise some appellate jurisdiction in addition to that exercised by the courts of appeal.

Etienne J. CAIRE, II

v.

John A. STASSI, d/b/a John A. Stassi Real Estate.

No. 10405.

Court of Appeal of Louisiana, Fourth Circuit

May 23, 1979.
Writ Granted July 2, 1979.

Before SAMUEL, LEMMON AND BOUTALL, JJ.

BOUTALL, Judge.

On our own motion we issued a rule to show cause why this appeal should not be dismissed for lack of jurisdiction.

This case is a claim for refund of deposit on a sale agreement on the amount of $600 by plaintiff-appellant, Etienne J. Caire, II against John A. Stassi. It was originally filed in the First City Court of the City of New Orleans. Judgment was rendered in favor of the defendant dismissing plaintiff's suit at his costs. Plaintiff then applied for and was granted a devolutive appeal returnable to the Civil District Court for the Parish of Orleans. Defendant answered the appeal seeking attorney's fees. At pre-trial conference, the parties agreed that the matter would be submitted on the record from the first city court and on briefs of the applicable law. The judge of the Civil District Court then entered judgment affirming the judgment of the First City Court and awarded defendant attorney's fees of $500, giving detailed written reasons for his judgment.

The plaintiff then applied for an appeal to this court, suspensively and devolutively and posted the suspensive appeal bond in the amount of $750 as fixed by the Civil District Court. Upon the appeal being lodged in this court, on our own motion we issued a rule to show cause why the appeal should not be dismissed and referred the parties to a decision of the Court of Appeal, 1st Circuit, entitled Gregory Crain v. Dearmond's et al, 369 So2d 1171 (La.App. 1st Cir. 1979). It is this question of jurisdiction which we now consider.

We agree with our brethren of the First Circuit that we have no appellate

jurisdiction in a case such as this, where the Civil District Court for the Parish of Orleans has already exercised its jurisdiction as appellate court. We quote from that case:

"We notice ex proprio motu lack of jurisdiction.

"Article 5, Section 10 of the Constitution of 1974, provides:

(A) Jurisdiction. Except in cases appealable to the supreme court and except as otherwise provided by this constitution, a court of appeal has appellate jurisdiction of all (1) civil matters decided within its circuit and (2) matters appealed from family and juvenile courts, except criminal prosecutions of persons other than juveniles. It has supervisory jurisdiction over cases in which an appeal would lie to it.'
'(Emphasis added.)'

(B) Scope of Review . . ."

"Section 16 of Article 5 of the constitution provides:

(A) Original Jurisdiction . . . .

(B) Appellate Jurisdiction. A district Court shall have appellate jurisdiction as provided by law.'"

"C.C.P. Article 4833, states:

'A . . .

'B The appeal from a city court when the amount in contest is one thousand dollars or less exclusive of interest, shall be returnable to the district court of the district in which the city is located.

'The appeal from a city court when the amount in contest exceeds one thousand dollars, exclusive of interest, shall be returnable to the court of appeal of the circuit in which the city is located." Amended by Acts of 1976, No. 84, 1.'"

Traditionally, the City Courts of New Orleans have differed in a number of respects from the general procedures set out for City Courts elsewhere in the state. We note that in this case the amount in controversy is $600. Accordingly, C.C.P. Article 4835 grants jurisdiction to the New Orleans City Courts concurrent with the Civil District Court. In cases involving $300 or less, the appeal from the City Court of New Orleans is to the Civil District Court where the case is tried de novo. C.C.P. Article 4921. In cases involving more than $300, as here, the appeal is governed by C.C.P. Article 5002 providing for a devolutive or suspensive appeal to the proper appellate court. We have held in the case of Hibernia National Bank in New Orleans v. DeGraauw, 351 So.2d 1223 (La.App. 4th Cir. 1977), affirmed 350 So. 2d 1219, that C.C.P. Article 4833(B) is applicable to The City Courts of New Orleans and that subsection as quoted above provides that the appeal, when the amount in contest is $1,000 or less, is to the District Court. The appeal is to the Court of Appeal where the amount exceeds $1,000.

As the amount here involved is $600, the constitutional and statutory provisions above referred to make it clear that this court has no jurisdiction. There is no sound reason advanced upon which one could conclude that the law intended that a litigant appealing a judgment involving less than $1,000 should be granted more appellate safeguards than a litigant appealing a case involving more than $1,000. It defies judicial economy to suppose that C.C.P. Article 4833(B) intended to grant such a litigant the extra step in appeal sought for in this case.

Accordingly, this appeal is dismissed at appellant's cost.

APPEAL DISMISSED.

Art. 4833. Jurisdiction of city courts in municipalities of ten thousand or more population, New Orleans city courts excepted; appeals from city courts and parish courts.

A. The civil jurisdiction of city courts where the population within their respective territorial jurisdictions is ten thousand or more is concurrent with that of the district court in cases where the amount in dispute, or the value of the movable property involved, does not exceed two thousand dollars, exclusive of interest and attorney's fees, including suits by landlords for the possession of leased premises where the monthly or yearly rent, or the rent for the unexpired term of the lease, does not exceed this amount.

This Subsection shall not apply to the city courts of New Orleans.

B. The appeal from a city court when the amount in contest is one thousand dollars or less exclusive of interest, shall be returnable to the district court of the district in which the city is located.

The appeal from a city court when the amount in contest exceeds one thousand dollars, exclusive of interest, shall be returnable to the court of appeal of the circuit in which the city is located.

C. The appeal from a parish court when the amount in contest exceeds one hundred dollars, exclusive of interest, shall be returnable to the court of appeal of the circuit in which the parish court

is located. (Amended by Acts 1976, No. 84, 1; Acts 1978, No. 565, 1.)

Art. 4899. Appeal.

An appeal from a judgment rendered by a city court can be taken only within ten days from the date of judgment or of the service of notice of judgment when necessary under Article 4898.

An oral request for an appeal may be made of the judge. When a request for an appeal is made, the judge shall fix the return day no later than ten days from the request for an appeal. The date of the request for an appeal, the return day, and the amount of the appeal bond when determined by the judge as provided in Articles 2124 and 4900 shall be entered in the permanent record book.

The appeal is to the district court of the parish, where the case is tried de novo.

SECTION 2. NEW ORLEANS CITY COURTS

Art. 4921. Procedure in cases involving less than twenty-five dollars.

Except as otherwise provided in this article, the rules provided in Articles 4892 through 4901 apply to a case in a New Orleans city court where the amount involved is less than twenty-five dollars.

An appeal in such a case granted prior to July 1, 1960, shall be to the Court of Appeal for the Parish of Orleans; and an appeal in such a case granted on or after July 1, 1960, shall be to the Civil District Court for the Parish of Orleans. On appeal the case shall be tried de novo by a judge of the appellate court.

ARTICLE V.

LOUISIANA CONSTITUTION OF 1974

Section 8. Courts of Appeal; Circuits; Panels; Judgments; Terms

Section 8. (A) Circuits; Panels. The state shall be divided into at least four circuits, with one court of appeal in each. Each court shall sit in panels of at least three judges selected according to rules adopted by the court.

(B) Judgments. A majority of the judges sitting in a case must concur to render judgment. However, when a judgment of a district court is to be modified or reversed and one judge dissents, the case shall be reargued before a panel of at least five judges prior to rendition of judgment, and a majority must concur to render judgment.

(C) Terms. The term of a court of appeal judge shall be ten years.